

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO: 5:04-CV-171

KENNETH BARTON and)
SHARON BARTON,)
)
Plaintiffs,)
)
v.)
)
VICKI INGLEDUE, M.D., MARK)
SCOTT, P.A. and ASHE)
MEMORIAL HOSPITAL,)
)
Defendants.)
)

MEMORANDUM AND ORDER COMPELLING RULE 9(j) DISCOVERY

This matter is before the Court on the "Motion to Compel Plaintiffs to Make Discovery Pursuant to Rule 9(j) of the North Carolina Rules of Civil Procedure," which was filed by the defendant denominated as "Vicki Ingledue, M.D." on ^{SEPT. 23, 2005. cbb} ~~July 1, 2005~~. *No Response has been filed to this Motion, and the time for filing a Response has expired.* Having considered the Motion, the record, and the applicable authority, the undersigned will grant Dr. Ingledue's "Motion To Compel Plaintiffs to Make Discovery Pursuant to Rule 9(j) of the North Carolina Rules of Civil Procedure," as discussed below:

FACTUAL AND PROCEDURAL BACKGROUND

1. On June 29, 2005, counsel for this Defendant served a "Second Set of Interrogatories of Defendant, Vicki Ingledue, M.D., to the Plaintiffs, Kenneth Barton and Sharon Barton, Pursuant to Rule 9(j)."
2. Counsel for Dr. Ingledue has taken the following actions in a good faith effort to secure the Plaintiffs' responses to the above-referenced discovery, pursuant to Rule 37(a)(2)(B) of the Federal Rules of Civil Procedure:


(a) In a letter dated August 30, 2005, counsel for Dr. Ingledue notified counsel for the Plaintiffs that the time for the Plaintiffs to respond to the above-referenced discovery had expired. That letter notified counsel for the Plaintiffs that counsel for Dr. Ingledue would be forced to file a Motion to Compel if the Plaintiffs' responses were not received within ten (10) days of August 30, 2005.

(b) On September 16, 2005, counsel for Dr. Ingledue spoke with representatives in the office of the counsel for the Plaintiffs via telephone informing them of the outstanding discovery and referencing the August 30, 2005 letter.

NOW THEREFORE, IT IS ORDERED:

1. Dr. Ingledue's "Motion to Compel Plaintiffs to Make Discovery Pursuant to Rule 9(j) of the North Carolina Rules of Civil Procedure" is **GRANTED**.
2. The Plaintiffs will be ordered to produce responses to "Second Set of Interrogatories of Defendant, Vicki Ingledue, M.D., to the Plaintiffs, Kenneth Barton and Sharon Barton, Pursuant to Rule 9(j) to counsel for Dr. Ingledue within fourteen (14) days of this Order:
3. The Clerk is directed to send copies of this Memorandum and Order to counsel for the parties.

SO ORDERED, ADJUDGED AND DECREED.



Carl Horn, III
United States Magistrate Judge